

ARKANSAS STATE BOARD OF NURSING RULES AND REGULATIONS
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CHAPTER TWO

LICENSURE: R.N., L.P.N., AND L.P.T.N.

SECTION I

QUALIFICATIONS

- A.** Good moral character.
- B.** Completion of an approved high school course of study or the equivalent as determined by the appropriate educational agency.
- C.** Completion of the required approved nursing education program. (LPN and LPTN requirements may be waived if applicant is determined to be otherwise qualified.)
- D.** The Arkansas State Board of Nursing (ASBN) may refuse to admit to the examination any candidate and refuse to issue a license, certificate or registration to any applicant if the license, practice privilege, certificate or registration of such person has been revoked or suspended or placed on probation and not reinstated by the jurisdiction which took such action.
- E.** Effective January 1, 2000, no person shall be eligible to receive or hold a license issued by the board if that person has pleaded guilty or nolo contendere to, or been found guilty by any court in the State of Arkansas, or of any similar offense by a court in another state, or of any similar offense by a federal court of any offense listed in Act 1208 of 1999.

SECTION II

EXAMINATION

A. ELIGIBILITY

The applicant shall meet the licensure requirements of the Board.

B. APPLICATION

- 1. Applications for examination shall be completed, certified and filed with the Board prior to the examination.
- 2. One 2x3-inch photograph, signed by the applicant, shall be filed with the application.
- 3. Examination applications shall be notarized. The application shall not be acceptable if the director or chairman of an educational program has certified the applicant prior to date of completion.
- 4. Applicants for licensure by examination shall not be deemed eligible to take the licensure examination until such time that the results of the state and federal criminal background checks have

been received.

C. FEE

1. The examination fee shall accompany the application.
2. The examination fee (first time or retake) is not refundable.
3. The fees for the state and federal criminal background checks are the responsibility of the applicant and shall be submitted to the Arkansas State Police with the application for same.
4. The fees are determined by the Arkansas State Police and the FBI and are not refundable.

D. PASSING SCORE

The passing score on the licensure examination shall be determined by the Board.

E. FAILING SCORE AND ELIGIBILITY TO RETAKE THE EXAMINATION

1. Any applicant whose score falls below the passing score shall fail the examination.
2. Persons failing the examination will be responsible for preparing to retake the examination.
3. The frequency and number of retests by unsuccessful candidates shall be determined by the Board.
4. Applicants retaking the examination shall have state and federal criminal background checks within the past twelve months on file with the Board.

F. RESULTS

1. Examination results shall not be released until a copy of the applicant's transcript is received from the school.
2. Examination results shall be mailed to all applicants and to their respective schools.

G. FOREIGN EDUCATED NURSES

1. The applicant must present evidence of:
 - a. Graduation from an approved or accredited school of nursing. The Board may waive this requirement for LPN and LPTN applicants provided they are otherwise qualified.
 - b. Licensure or proof of eligibility for licensure in the country of graduation.
 - c. Theory and practice in medical, surgical, pediatric, obstetric and psychiatric nursing which is substantially similar in length and content to that in equivalent Arkansas Board approved nursing programs at the time of application as verified by a credentials review agency.

- d. State and federal criminal background checks within the past twelve months on file with the Board.
 - e. Credentials review that includes verification of the candidate's education, training, experience and licensure with respect to the statutory and regulatory requirements for the nursing profession, as well as oral and written competence in English.
2. L.P.N. applicants must have evidence of all the foregoing with the exception of psychiatric nursing, in which theory only is required.
 3. Transcripts and certificates which are not in English must be accompanied by a certified translation.
 4. Applicants shall be required to take such licensure examinations as required of Arkansas Board approved nursing programs.

H. EQUIVALENCIES

1. LPN to LPTN: Candidates holding LPN licensure may, with the approval of the Board's representative, take the requisite psychiatric nursing courses in a Board approved LPTN program to meet the Board's requirements for LPTN licensure by examination at the time of application.
2. LPTN to LPN: Candidates holding LPTN licensure who completed Arkansas Board approved LPTN programs after March 18, 1980, may be admitted to the LPN licensure examination provided they are otherwise qualified.
3. RN examination failures: Graduates of Board approved R.N. programs, upon submission of an official transcript directly from the school, and a copy of their R.N. examination failure results, may be admitted to the LPN licensure examination provided they are otherwise qualified.
4. Portion of RN Program: Candidates who have completed equivalent courses in a state approved program of nursing may be admitted to the LPN licensure examination provided they are otherwise qualified. Evidence must be provided verifying successful completion of classroom instruction and clinical practice substantially similar to the minimum requirements for practical nursing programs.

SECTION III INTERSTATE NURSE LICENSURE COMPACT

A. DEFINITIONS OF TERMS IN THE COMPACT

For the purpose of the Compact:

1. "Board" means party state's regulatory body responsible for issuing nurse licenses.
2. "Information system" means the coordinated licensure information

system.

3. "Primary state of residence" means the state of a person's declared fixed permanent and principal home for legal purposes; domicile.
4. "Public" means any individual or entity other than designated staff or representatives of party state Boards or the National Council of State Boards of Nursing, Inc.
5. "Alternative program" means a voluntary, non-disciplinary monitoring program approved by a nurse licensing board.
6. "Coordinated Licensure Information System" means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws, which is administered by a non-profit organization composed of state nurse licensing boards.
7. "Home state" means the party state which is the nurse's primary state of residence.
8. "Multistate licensure privilege" means current, official authority from a remote state permitting the practice of nursing as either a registered nurse or a licensed practical/vocational nurse in such party state.
9. "Nurse" means a registered nurse or licensed practical nurse, as those terms are defined by each party's state practice laws.
10. "Party state" means any state that has adopted this Compact.
11. "Remote state" means a party state, other than the home state,
 - (a) where the patient is located at the time nursing care is provided, or,
 - (b) in the case of the practice of nursing not involving a patient, in such party state where the recipient of nursing practice is located.
12. "Current significant investigative information" means:
 - (a) investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or
 - (b) investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.
13. Licensed Practical Nurse or Licensed Vocational Nurse means a person who has been licensed as an LPN or LVN by a party state licensing board.

Other terms used in these rules are to be defined as in the Interstate Compact.

B. ISSUANCE OF A LICENSE BY A COMPACT PARTY STATE

For the purpose of this Compact:

1. A nurse applying for a license in a home party state shall produce evidence of the nurses' primary state of residence. Such evidence shall include a declaration signed by the licensee. Further evidence that may be requested may include but is not limited to:
 - a. Driver's license with a home address;
 - b. Voter registration card displaying a home address; or
 - c. Federal income tax return declaring the primary state of residence.
2. A nurse changing primary state of residence, from one party state to another party state, may continue to practice under the former home state license and multistate licensure privilege during the processing of the nurse's licensure application in the new home state for a period not to exceed thirty (30) days.
3. The licensure application in the new home state of a nurse under pending investigation by the former home state shall be held in abeyance and the thirty (30) day period in section B.2. shall be stayed until resolution of the pending investigation.
4. The former home state license shall no longer be valid upon the issuance of a new home state license.
5. If a decision is made by the new home state denying licensure, the new home state shall notify the former home state within ten (10) business days and the former home state may take action in accordance with that state's laws and rules.
6. Party states shall recognize and honor either the LPN or LVN title used for Licensed Practical Nurses and Licensed Vocational Nurses, respectively.

C. LIMITATIONS ON MULTISTATE LICENSURE PRIVILEGE

Home state Boards shall include in all licensure disciplinary orders and/or agreements that limit practice and/or require monitoring the requirement that the licensee subject to said order and/or agreement will agree to limit the licensee's practice to the home state during the pendency of the disciplinary order and/or agreement. This requirement may, in the alternative, allow the nurse to practice in other party states with prior written authorization from both the home state and such other party state Boards.

D. INFORMATION SYSTEM

1. Levels of access
 - a. The public shall have access to nurse licensure information limited to:
 - (1) the nurse's name,
 - (2) jurisdiction(s) of licensure,
 - (3) license expiration date(s),
 - (4) licensure classification(s) and status(es),
 - (5) public emergency and final disciplinary actions, as

- defined by contributing state authority, and
(6) the status of multistate licensure privileges.
- b. Non-party state Boards shall have access to all Information System data except current significant investigative information and other information as limited by contributing party state authority.
 - c. Party state Boards shall have access to all Information System data contributed by the party states and other information as limited by contributing non-party state authority.
2. The licensee may request in writing to the home state Board to review the data relating to the licensee in the Information System. In the event a licensee asserts that any data relating to him or her is inaccurate, the burden of proof shall be upon the licensee to provide evidence that substantiates such claim. The Board shall verify and within ten (10) business days correct inaccurate data to the Information System.
 3. The Board shall report to the Information System within ten (10) business days:
 - a. Disciplinary action, agreement or order requiring participation in alternative programs or which limit practice or require monitoring (except agreements and orders relating to participation in alternative programs required to remain nonpublic by contributing state authority),
 - b. Dismissal of complaint, and
 - c. Changes in status of disciplinary action, or licensure encumbrance.
 4. Current significant investigative information shall be deleted from the Information System within ten (10) business days upon report of disciplinary action, agreement or order requiring participation in alternative programs or agreements which limit practice or require monitoring or dismissal of a complaint.
 5. Changes to licensure information in the Information System shall be completed within ten (10) business days upon notification by a Board.

SECTION IV ENDORSEMENT

A. ELIGIBILITY

1. An applicant for licensure by endorsement must meet the requirements of the Board at the time of graduation.
2. An applicant licensed in another state after January 1950 must have taken a state board licensing examination and achieved a passing score.
3. LPTN applicants will be accepted from California and Kansas only.

B. EQUIVALENCIES

1. R.N. examination failures: Graduates of Board approved RN programs, holding LPN licensure by examination in other jurisdictions, may be endorsed provided they are otherwise qualified.
2. Canadian Registered Nurses licensed by NLN State Board Test Pool Examination in the following provinces during the years indicated: Alberta, 1952-1970; British Columbia, 1949-1970; Manitoba, 1955-1970; Newfoundland, 1961-1970; Nova Scotia, 1955-1970; Prince Edward Island, 1956-1970; Quebec (English language), 1959-1970; and Saskatchewan, 1956-1970. These applicants may be endorsed provided they are otherwise qualified.
3. Portion of RN Program: candidates who have completed equivalent courses in a state approved program of nursing may be endorsed provided they are otherwise qualified. Evidence must be provided verifying successful completion of classroom instruction and clinical practice substantially similar to the minimum requirements for practical nursing programs.

C. APPLICATION

1. Applications must be completed, certified, accompanied by a 2x3-inch photograph signed by the applicant, and filed with the Board.
2. Endorsement certification will be accepted from the state of original licensure only.
3. Applicants for licensure by endorsement shall not be issued a permanent license to practice until such time that the results of the state and federal criminal background checks have been received.

D. FEE

1. The endorsement fee must accompany the application.
2. The fees for the state and federal criminal background checks are the responsibility of the applicant and shall be submitted to the Arkansas State Police with the application for same.
3. The fees are not refundable.

SECTION V CRIMINAL BACKGROUND CHECK

- A.** No application for issuance of an initial license will be considered without state and federal criminal background checks by the Arkansas State Police and the Federal Bureau of Investigation.
- B.** Each applicant shall sign a release of information on the criminal background check application and licensure applications and shall be solely responsible for the payment of any fees associated with the state and federal criminal background checks to the Arkansas State Police.

- C. Upon completion of the state and federal criminal background checks, the Identification Bureau of the Arkansas State Police shall forward all information obtained concerning the applicant in the commission of any offense listed in Act 1208 of 1999 and Act 303 of 2001.
- D. The state and federal criminal background checks conducted by the Arkansas State Police and the Federal Bureau of Investigation shall have been completed no earlier than twelve (12) months prior to the application for an initial license issued by the ASBN and at any other time thereafter that the Board deems necessary.
- E. The ASBN shall not issue a permanent license until the state and federal criminal background checks conducted by the Arkansas State Police and the Federal Bureau of Investigation have been completed.
- F. A request to seek waiver of the denial of licensure pursuant to the provisions of Act 1208 of 1999 and Act 303 of 2001 may be made to the ASBN by:
 - (1) the affected applicant for licensure, or
 - (2) the person holding a license subject to revocation.
- G. The request for a waiver shall be made in writing to the Executive Director or the designee within thirty (30) calendar days after notification of denial of a license. The request for waiver shall include, but not be limited to the following:
 - (1) certified copy of court records indicating grounds for conviction,
 - (2) any other pertinent documentation to indicate surrounding circumstances.
- H. If an individual notifies ASBN in writing that he/she desires a hearing regarding their request for a waiver, the ASBN will schedule the individual for a hearing pursuant to the Arkansas Administrative Procedures Act.
- I. If the individual does not notify the ASBN that he/she desires a hearing regarding their request for a waiver, the ASBN will not hold a hearing and may take action regarding their request for a waiver based upon proof submitted by ASBN and the applicant.

SECTION VI TEMPORARY PERMITS

A. ENDORSEMENT AND EXAM APPLICANTS

1. ASBN shall be authorized to issue a temporary permit for a period not exceeding six months. This temporary permit shall be issued only to those applicants who meet all other qualifications for licensure by the ASBN, and upon whom results of the Arkansas

State Police criminal background check have been received showing no violations listed in Act 1208 of 1999 and Act 303 of 2001.

2. The temporary permit shall immediately become invalid upon receipt of information obtained from the federal criminal background check indicating any offense listed in Act 1208 of 1999 and Act 303 of 2001 or upon notification to the applicant or ASBN of results on the first licensure examination he or she is eligible to take after the permit is issued.
3. Falsification of the applicants criminal record history shall be grounds for disciplinary action by the Board.

B. FEES AND APPLICATIONS

1. The temporary permit fee shall be submitted with the application.
2. The fee is not refundable.

SECTION VII CONTINUING EDUCATION

Each person holding an active license or applying for reinstatement of a license under the provisions of the Nurse Practice Act shall be required to complete certain continuing education requirements prior to licensure renewal or reinstatement.

A. DECLARATION OF COMPLIANCE

Each nurse shall declare his/her compliance with the requirements for continuing education at the time of license renewal or reinstatement. The declaration shall be made on the form supplied by the Board.

B. AUDITS OF LICENSEES

1. The Board shall perform random audits of licensees for compliance with the continuing education requirement.
2. If audited, the licensee shall prove participation in the required continuing education during the 24-months immediately preceding the renewal date by presenting photocopies of original certificates of completion to the Board.
3. The licensee shall provide evidence of continuing education requirements within thirty (30) calendar days from the mailing date of the audit notification letter sent from the Board to the last known address of the licensee.

C. CONTINUING EDUCATION REQUIREMENT STANDARDS

1. Standards for Renewal of Active Licensure Status
Licensees who hold an active nursing license shall document completion of one of the following during each renewal period:

- a. Fifteen (15) practice focused contact hours from a nationally recognized or state continuing education approval body recognized by the ASBN; or
 - b. Certification or re-certification during the renewal period by a national certifying body recognized by the ASBN; or
 - c. An academic course in nursing or related field; and
 - d. Provide other evidence as requested by the Board.
2. Standards for Nurses on Inactive Status
Nurses who have their license placed on inactive status have no requirements for continuing education.
 3. Standards for Reinstatement of Active Licensure Status
 - a. Nurses reinstating a nursing license to active status after five years or less shall document completion of the following within the past two (2) years:
 - i) Twenty (20) practice focused contact hours within the past two years from a nationally recognized or state continuing education approval body recognized by the ASBN, or
 - ii) Certification or re-certification by a national certifying body recognized by the ASBN; or
 - iii) An academic course in nursing or related field; and/or
 - iv) Provide other evidence as requested by the Board.
 - b. Nurses reinstating a nursing license to active status after greater than five years shall document completion of the following within the past two (2) years:
 - i) Twenty (20) practice focused contact hours within the past two years from a nationally recognized or state continuing education approval body recognized by the Arkansas State Board of Nursing, or
 - ii) Certification or re-certification by a national certifying body recognized by the ASBN; or
 - iii) An academic course in nursing or related field; and
 - iv) A refresher course approved by the ASBN; or
 - v) An employer competency orientation program, and
 - vi) Provide other evidence as requested by the Board.
 4. The Board may issue a temporary permit to a nurse during the time enrolled in a Board-approved nursing refresher course or an employer competency orientation program upon submission of an application, fees and verification of enrollment in such program.
 5. Continuing education hours beyond the required contact hours shall not be “carried over” to the next renewal period.

D. RESPONSIBILITIES OF THE INDIVIDUAL LICENSEE

1. It shall be the responsibility of each licensee to select and participate in those continuing activities that will meet the criteria for acceptable continuing education as specified in A.C.A. §17-87-207

and these regulations.

2. It shall be the licensee's responsibility to maintain records of continuing education as well as documented proof such as original certificates of attendance, contact hour certificates, academic transcripts or grade slips and to submit copies of this evidence when requested by the Board.
3. Records shall be maintained by the licensee for a minimum of two consecutive renewal periods or four years.

E. RECOGNITION OF PROVIDERS

1. The Board shall identify organizations, agencies, and groups that shall be recognized as valid approval bodies/providers of nursing continuing education. The recognition may include providers approved by national organizations and state agencies with comparable standards.
2. The Board shall work with professional organizations, approved nursing schools, and other providers of continuing educational programs to ensure that continuing education activities are available to nurses in Arkansas.

F. ACTIVITIES ACCEPTABLE FOR CONTINUING EDUCATION

1. Activities presented by recognized providers which may be acceptable include: national/ regional educational conferences, classroom instruction, individualized instruction (home study/programmed instruction), academic courses, and institutional based instruction; and
2. The educational activity shall be at least one contact hour in length.
3. The content shall be relevant to nursing practice and provide for professional growth of the licensee.
4. If participation is in an academic course or other program in which grades are given, a grade equivalent to "C" or better shall be required, or "pass" on a pass/fail grading system. An academic course may also be taken as "audit", provided that class attendance is verified by the instructor.

G. ACTIVITIES WHICH ARE NOT ACCEPTABLE AS CONTINUING EDUCATION

1. Inservice programs. Activities intended to assist the nurse to acquire, maintain, and/or increase the competence in fulfilling the assigned responsibilities specific to the expectations of the employer.
2. Refresher courses. Programs designed to update basic general knowledge and clinical practice, which consist of a didactic and clinical component to ensure entry level competencies into nursing practice.
3. Orientation programs. A program by which new staff are introduced to the philosophy, goals, policies, procedures, role

expectations, physical facilities and special services in a specific work setting. Orientation is provided at the time of employment and at other times when changes in roles and responsibilities occur in a specific work setting.

4. Courses designed for lay people.

H. INDIVIDUAL REVIEW OF A CONTINUING EDUCATION ACTIVITY PROVIDED BY A NON-RECOGNIZED AGENCY/ORGANIZATION

1. A licensee may request an individual review by:
 - i. Submitting an "Application for Individual Review".
 - ii. Paying a fee.
2. Approval of a non-recognized continuing educational activity shall be limited to the specific event under consideration.

I. FAILURE TO COMPLY

1. Any licensee who fails to complete continuing education or who falsely certifies completion of continuing education shall be subject to disciplinary action, non-renewal of the nurse's license, or both, pursuant to A.C.A. §17-87-207 and A.C.A §17-87-309(a)(1) and (a)(6).
2. If the Board determines that a licensee has failed to comply with continuing education requirements, the licensee will:
 - i. Be allowed to meet continuing education requirements within ninety(90) days of notification of non-compliance.
 - ii. Be assessed a late fee for each contact hour that requirements are not met after the ninety (90) day grace period and be issued a Letter of Reprimand. Failure to pay the fee may result in further disciplinary action.

SECTION VIII RENEWALS

- A.** Each person licensed under the provisions of the Nurse Practice Act shall renew biennially.
 1. Thirty (30) days prior to the expiration date, the Board shall mail a renewal application to the last known address of each nurse to whom a license was issued or renewed during the current period.
 2. The application shall be completed before the license renewal is processed.
 3. The fee for renewal shall accompany the application.
 4. The fee is not refundable.

B. LAPSED LICENSE

1. The license is lapsed if not renewed or placed in inactive status by the expiration date.
2. Failure to receive the renewal notice at the last address of record in the Board office shall not relieve the licensee of the responsibility for renewing the license by the expiration date.
3. Any licensee whose license has lapsed shall file a renewal application and pay the current renewal fee and the reinstatement fee.
4. Any person practicing nursing during the time his or her license has lapsed shall be considered an illegal practitioner and shall be subject to the penalties provided for violation of the Nurse Practice Act.

C. INACTIVE STATUS

1. Any licensee in good standing, who desires to retire temporarily from the practice of nursing in this state, shall submit a request in writing and the current license shall be placed on inactive status from the date of expiration.
2. While inactive, the licensee shall not practice nursing nor be subject to the payment of renewal fees.
3. When the licensee desires to resume practice, he or she shall request a renewal application, which shall be completed and submitted with a reinstatement fee and the renewal fee and must meet those requirements outlined in Section VII.
4. When disciplinary proceedings have been initiated against an inactive licensee, the license shall not be reinstated until the proceedings have been completed.

D. RETIRED NURSE

1. Any licensee in good standing, who desires to retire for any length of time from the practice of nursing in this state, shall submit a request in writing, surrender the current license, and pay the required fee and the current license shall be placed on inactive status and a retired license issued.
2. A retired license shall be renewed biennially following submission of a renewal application and fee.
3. Fees are non-refundable.
4. While retired, the licensee shall not practice nursing, however:
 - a. A registered nurse with a retired license may use the title "Registered Nurse", or the abbreviation "RN"; and
 - b. A practical nurse with a retired license may use the title "Licensed Practice Nurse", or the abbreviation "LPN"; and
 - c. A psychiatric technician nurse with a retired license may use the title "Licensed Psychiatric Technician Nurse", or the abbreviation "LPTN".

5. When the licensee desires to resume practice, he or she shall request a renewal application, which shall be completed and submitted with a reinstatement fee and the active renewal fee. The licensee must also meet those requirements outlined in Section VII.
 6. If the retired license is allowed to lapse, the licensee shall not hold himself or herself out as an RN, LPN or LPTN and shall pay a reinstatement fee in addition to the fee required for renewal of the retired license.
 7. When disciplinary proceedings have been initiated against a retired licensee, the license shall not be reinstated until the proceedings have been completed.
- E. The licensee may be required to submit to a state and federal criminal background check if the Board deems it necessary

SECTION IX DUPLICATE LICENSE

- A. A duplicate license or certificate shall be issued when the licensee submits a notarized statement to the Board that the document is lost, stolen, or destroyed, and pays the required fee.
- B. The license will be marked "duplicate".

SECTION X CERTIFICATION/VERIFICATION TO ANOTHER JURISDICTION

Upon payment of a certification/verification fee, a nurse seeking licensure in another state may have a certified statement of Arkansas licensure issued to the Board of Nursing in that state.

SECTION XI NAME OR ADDRESS CHANGE

- A. A licensee, whose name is legally changed, shall be issued a replacement license following submission of the current license, along with a notarized statement, copy of marriage license or court action, and the required fee.
- B. A licensee, whose address changes from the address appearing on the current license, shall immediately notify the Board in writing of the change.

Effective November 30, 2001

CHAPTER FOUR ADVANCED PRACTICE NURSING

SECTION I SCOPE OF PRACTICE

The advanced practice nurse shall practice in a manner consistent with the definition of the practice of advanced practice nursing set forth in Ark. Code Ann. § 17-87-102(3).(A)(B)(C)(D), and in accordance with the scope of practice defined by the appropriate national certifying body and the standards set forth in these regulations. The advanced practice nurse may provide health care for which the APN is educationally prepared and for which competence has been attained and maintained

SECTION II QUALIFICATIONS FOR LICENSURE

Advanced practice nurse (APN) licensure shall be designated in one of the four categories below. A current unencumbered registered nurse license to practice in Arkansas is required for all categories of advanced practice licensure. Effective January 1, 2003, all applicants for advanced practice licensure shall have graduated from or completed a graduate level advanced practice nursing education program. APN categories and their respective qualifications are:

A. ADVANCED NURSE PRACTITIONER (ANP)

1. Successful completion of a graduate level organized program of nursing education that prepares nurses for the advanced practice role of advanced nurse practitioner; and
2. Current certification as a nurse practitioner by a nationally recognized certifying body which meets the requirements of Section VII of this Chapter.

B. CERTIFIED REGISTERED NURSE ANESTHETIST (CRNA)

1. Satisfactory completion, beyond generic nursing preparation, of a formal graduate level educational program that meets the standards of the Council on Accreditation of Nurse Anesthesia Educational Programs or another nationally recognized accrediting body that has as its objective preparation of nurses to perform as nurse anesthetists; and
2. Current certification from the Council on Certification of Nurse Anesthetists, Council on Recertification of Nurse Anesthetists, or another nationally recognized certifying body which meets the requirements of Section VII of this Chapter.

C. CERTIFIED NURSE MIDWIFE (CNM)

1. Successful completion of a graduate level program of nursing education that prepares nurses for the advanced practice role of nurse midwife;
2. Current certification as a nurse midwife from the American College of Nurse Midwives, or another nationally recognized certifying body which meets the requirements of Section VII of this Chapter; and
3. Written agreement with a consulting physician if providing intrapartum care.

D. CLINICAL NURSE SPECIALIST (CNS)

1. Master's degree evidencing successful completion of a graduate program in nursing, which shall include supervised clinical practice and classroom instruction in a nursing clinical practice specialty; and
2. Current certification in a specialty role as a clinical nurse specialist from a nationally recognized certifying body which meets the requirements of Section VII of this Chapter.

SECTION III LICENSURE

A. ELIGIBILITY

The applicant shall meet the licensure requirements of the Board.

B. APPLICATION FOR INITIAL LICENSURE

In addition to current licensure as a registered nurse, the information submitted to the Board shall include:

1. A completed Board application form;
2. An official transcript or document from a nursing education program that meets the qualifications of Section II of this Chapter in the category of advanced practice nursing for which the applicant is seeking licensure. The transcript or document shall verify the date of graduation and the degree or certificate conferred;
3. For foreign educated applicants, documentation that the graduate level educational program meets criteria for accreditation equivalent to that of a U.S. national accrediting body;
4. Evidence of state and federal criminal background checks conducted by the Arkansas State Police and the Federal Bureau of Investigation completed no earlier than twelve (12) months prior to the application for advanced practice licensure;
5. A statement directly from the Board approved national certifying body evidencing current certification in good standing; and
6. Payment of the nonrefundable fee.

C. TEMPORARY PERMITS

1. Upon application and payment of the required temporary permit fee, the Board shall issue a temporary permit to practice in an advanced practice nursing category to a qualified applicant who:
 - a. Meets the educational requirements set forth in Section II of this Chapter; and
 - b. Has been accepted by the appropriate certification body to sit for the first national certification exam he or she is eligible to take; and
 - c. Has no violations as listed in Act 1208 of 1999 on the Arkansas State Police criminal background check.
2. The permit shall expire upon notification to the applicant of the results of the examination.
3. The permit is not renewable and does not apply to prescriptive authority.

D. RENEWALS

1. The date for renewal of licensure to practice as an advanced practice nurse shall coincide with renewal of the applicant's registered nurse license.
2. An applicant for renewal of an advanced practice nurse license shall submit to the Board:
 - a. A completed Board renewal application form;
 - b. Proof of current national certification;
 - c. Documentation of current compact state RN licensure if primary state of residence has enacted the Interstate Nurse Licensure Compact; and
 - d. Payment of the nonrefundable renewal fee.
3. Continuing education submitted to the certifying body to meet the qualifications for recertification shall be accepted as meeting the statutory requirement for continuing education.
4. Upon request, an APN shall submit documentation of continuing education to the Board.

E. LAPSED LICENSE

1. The license is lapsed if not renewed or placed in an inactive status by the expiration date.
2. Failure to receive the renewal notice shall not relieve the licensee of the responsibility for renewing the license by the expiration date.
3. Any licensee whose license has lapsed shall submit to the Board:
 - a. A completed Board renewal application form;
 - b. Proof of current national certification;

- c. The renewal fee and the reinstatement fee.
4. Fees submitted to the Board are nonrefundable.
5. Any person engaged in advanced practice nursing during the time his or her license has lapsed shall be considered an illegal practitioner and shall be subject to the penalties provided for violation of the Nurse Practice Act.

F. INACTIVE STATUS

1. Any licensee in good standing who desires his or her advanced practice license to be placed on inactive status may submit a request in writing to the Board.
2. The current license shall be placed on inactive status from the date of expiration.
3. While the license is inactive, the licensee shall not engage in advanced practice nursing nor be subject to the payment of renewal fees.
4. If the nurse desires to resume practice in this state, he or she shall request a renewal application, which shall be completed and submitted with a renewal fee and the reinstatement fee. Fees are nonrefundable.
5. All certification and continuing education requirements for renewal shall apply.
6. If disciplinary proceedings on an inactive licensee have been initiated, the license shall not be reinstated until the proceedings have been completed.

SECTION IV DUPLICATE LICENSE

- A. A duplicate license or certificate shall be issued when the licensee submits a notarized statement to the Board that the document is lost, stolen, or destroyed, and pays the required fee.
- B. The license will be marked "duplicate".

SECTION V NAME OR ADDRESS CHANGE

- A. A licensee whose name is legally changed shall be issued a replacement license following submission of the current license, along with an affidavit, copy of marriage license or court action, and the required fee.
- B. A licensee whose address changes from the address appearing on the current license shall immediately notify the Board in writing of the change.

SECTION VI

STANDARDS OF NURSING PRACTICE

A. PURPOSE

1. To establish standards essential for safe practice by the advanced practice nurse.
2. To serve as a guide for evaluation of advanced nursing practice.

B. CORE STANDARDS FOR ALL CATEGORIES OF ADVANCED PRACTICE NURSING

1. The advanced practice nurse shall assess clients at an advanced level, identify health status including abnormal conditions, establish a diagnosis, develop and implement treatment plans and evaluate client outcomes.
2. The advanced practice nurse shall use advanced knowledge and skills in teaching and guiding clients and other health team members.
3. The advanced practice nurse shall use critical thinking and decision making at an advanced level, commensurate with the autonomy, authority and responsibility of his/her practice category.
4. The advanced practice nurse shall have knowledge of the statutes and regulations governing advanced nursing practice, and function within the legal boundaries of the appropriate advanced practice nursing category.
5. The advanced practice nurse shall recognize the APN's limits of knowledge and experience, planning for situations beyond expertise, and collaborating with or referring clients to other health care providers as appropriate.
6. The advanced practice nurse shall retain professional accountability for advanced practice nursing care when delegating interventions.
7. The advanced practice nurse shall maintain current knowledge and skills in the advanced practice nursing category.
8. Regulations which apply to registered nurses are hereby incorporated by reference.

- C.** In addition to the core standards, the advanced practice nurse shall practice in accordance with the standards established by the national certifying body from which the APN holds his or her certification required for licensure. These standards shall have been reviewed and accepted by the Board.

D. ADDITIONAL STANDARDS FOR CRNAS

1. The CRNA, acting in the normal course of his/her professional practice, may be authorized by a hospital or institution to act as their agent or employee to order the administration of controlled

- substances under the DEA registration of the hospital or institution.
2. The CRNA may order nurses to administer drugs preoperatively and/or postoperatively in connection with an anesthetic and/or other operative or invasive procedure that will be or has been provided.
 3. The CRNA's order shall be directly related to the administration of drugs preoperatively and/or postoperatively in connection with an anesthetic and/or other operative or invasive procedure that will be or has been provided.
 4. A CRNA who has not been granted authority by a DEA registrant as described in Title 21 CFR 1301.22, or its successor to order the administration of controlled substances shall give all orders as verbal orders from the supervising physician, dentist, or other person lawfully entitled to order anesthesia.
 5. The CRNA shall be responsible for complying with all applicable state and federal laws and regulations related to medications.

SECTION VII PROFESSIONAL CERTIFICATION PROGRAMS

- A. A national certifying body which meets the following criteria shall be recognized by the Board to satisfy Section II of these regulations.
- B. The national certifying body:
 1. Is national in the scope of its credentialing;
 2. Has no requirement for an applicant to be a member of any organization;
 3. Has an application process and credential review which includes documentation that the applicant's education is in the advanced practice nursing category being certified, and that the applicant's clinical practice is in the certification category;
 4. Uses an examination as a basis for certification in the advanced practice nursing category which meets the following criteria:
 - a. The examination is based upon job analysis studies conducted using standard methodologies acceptable to the testing community;
 - b. The examination represents the knowledge, skills and abilities essential for the delivery of safe and effective advanced nursing care to clients;
 - c. The examination content and its distribution are specified in a test plan (blueprint), based on the job analysis study, that is available to examinees;
 - d. Examination items are reviewed for content validity and correct scoring using an established mechanism, both before use and periodically;
 - e. Examinations are evaluated for psychometric performance;
 - f. The passing standard is established using acceptable psychometric methods, and is reevaluated periodically; and

- g. Examination security is maintained through established procedures.
5. Issues certification based upon passing the examination and meeting all other certification requirements;
6. Provides for periodic recertification which includes review of continued education, qualifications and continued competence;
7. Has mechanisms in place for communication to the Board for timely verification of an individual's certification status, changes in certification status, and changes in the certification program, including qualifications, test plan and scope of practice; and
8. Has an evaluation process to provide quality assurance in its certification program.

SECTION VIII PRESCRIPTIVE AUTHORITY

A. INITIAL APPLICANT

An applicant for an initial certificate of prescriptive authority shall:

1. Be currently licensed as an advanced practice nurse in Arkansas.
2. Provide evidence from the national certifying body that differential diagnosis and prescribing practices are recognized as being within the scope of practice for the applicant's certification category.
3. Provide documentation of successful completion of pharmacology coursework which shall include pharmacokinetics principles and their clinical application and the prescription of pharmacological agents in the prevention and treatment of illness, and the restoration and maintenance of health. The coursework shall contain a minimum of:
 - a. Three (3) graduate credit hours of a post-baccalaureate pharmacology course offered by an accredited college or university within two years immediately prior to the date of application to the Board; or
 - b. Forty-five (45) contact hours [a contact hour is fifty (50) minutes] in a pharmacology course which includes a competency component, offered by an accredited college or university, within two (2) years immediately prior to the date of application to the Board; or
 - c. Three (3) graduate credit hours pharmacology course, included as part of an advanced practice nursing education program, within five (5) years immediately prior to the date of application to the Board.
4. Provide documentation of a minimum of three hundred (300) clock hours preceptorial experience in the prescription of drugs, medicines and therapeutic devices with a qualified preceptor, to be initiated with the pharmacology course and to be completed within one year of the beginning of the course. Preceptorial experience completed as a part of the formal educational

program in which the pharmacology course is taught will meet the three hundred (300) clock hour requirement.

5. Provide evidence of a minimum of one thousand (1000) hours of practice in an advanced practice nursing category prior to application for a certificate of prescriptive authority. The 1,000 hours shall not include clinical hours obtained in the advanced practice nursing education program. This 1000 hours of practice in an advanced practice nursing category may include transmitting a prescription order orally or telephonically or to an inpatient medical record from protocols developed in collaboration with and signed by a licensed physician.
6. Submit a current collaborative practice agreement with a physician who is licensed under the Arkansas Medical Practices Act, § 17-93-201 et seq., and who has a practice comparable in scope, specialty or expertise to that of the advanced practice nurse. APN's who will prescribe controlled substances shall seek a collaborative practice with a physician who has an unrestricted DEA registration number.

The collaborative practice agreement shall include, but not be limited to:

- a. Availability of the collaborating physician(s) for consultation or referral or both;
 - b. Methods of management of the collaborative practice, which shall include the use of protocols for prescriptive authority;
 - c. Plans for coverage of the health care needs of a client in the emergency absence of the advanced practice nurse or physician;
 - d. Provision for quality assurance; and
 - e. Signatures of the advanced practice nurse and collaborating physician(s), signifying mutual agreement to the terms of the collaborative practice.
7. Submit the nonrefundable processing fee with the application for a certificate of prescriptive authority.

B. ENDORSEMENT APPLICANT

1. An applicant for endorsement of prescriptive authority shall:
 - a. Provide evidence that the initial criteria for prescriptive authority has been met in the jurisdiction from which the applicant is moving;
 - b. Provide evidence that prescriptive authority is current in the jurisdiction from which the applicant is moving;
 - c. Provide evidence of prescribing in a clinical setting for at least 1000 hours in the year prior to application for a certificate of prescriptive authority;
 - d. Have an unencumbered advanced practice nursing license to practice or the equivalent in the jurisdiction from which

- e. the applicant is moving.
 - e. Provide a copy of current DEA registration (if prescriber has DEA number) and history of registration status; and
 - f. Meet requirements in Section VIII.A.1.6.7.
2. Endorsement applicants who do not meet all requirements established herein shall be required to submit documentation acceptable to the Board according to Section VIII.A.

C. PROTOCOLS FOR PRESCRIPTIVE AUTHORITY

Protocols shall be made available upon request of the Board. Such protocols shall, at a minimum, include:

1. Indications for and classifications of legend drugs, controlled substances (if prescriber holds a DEA registration number) and therapeutic devices which will be prescribed or administered by the APN;
2. Date the protocol was adopted or last reviewed, which shall be at least annually.

D. PRESCRIBING PRIVILEGES

1. The APN, applying for a certificate of prescriptive authority, shall acknowledge in the application that he/she is familiar with all state and federal laws and regulations regarding prescribing; and shall agree to comply with these laws and regulations.
2. An advanced practice nurse with a certificate of prescriptive authority may receive and prescribe legend drugs, medicines or therapeutic devices appropriate to the APN's area of practice. The prescriptive authority for controlled drugs shall only extend to drugs listed in Schedules III through V.
3. Prescribing stipulations are as follows:
 - a. Legend drugs and therapeutic devices that are prescribed by the APN shall be included in the protocols as outlined in Subsection C. of this Section.
 - b. Controlled substances (Schedules III-V), defined by the state and/or federal controlled substances lists, will be prescribed, administered or ordered as established in protocols provided that the APN has an assigned DEA registration number which is entered on each written prescription for a controlled substance.
 - c. The APN shall file his/her DEA registration number with the Board upon receipt.
 - d. Advanced practice nurses shall not delegate to unlicensed ancillary staff the calling in of prescriptions to the pharmacy.
 - e. The APN shall consult the Board for direction the next working day following termination of the collaborative practice agreement.
4. The APN may prescribe a legend drug, medicine or therapeutic device not included in the written protocols only as follows:

- a. Upon a specific written or verbal order obtained from the collaborating physician before the prescription or order is issued by the APN; and
 - b. Include documentation of consultation as described above in the client's medical record to be signed by the APN;
 - c. Schedules I and II controlled substances shall not be prescribed under the APN's certificate of prescriptive authority.
5. The APN shall note prescriptions on the client's medical record and include the following information:
 - a. Medication and strength;
 - b. Dose;
 - c. Amount prescribed;
 - d. Directions for use;
 - e. Number of refills; and
 - f. Initials or signature of APN.
 6. The Board shall be responsible for keeping an up-to-date record, available to the public, of the advanced practice nurses authorized to prescribe in the state.
 7. Advanced practice nurses in the category of certified registered nurse anesthetists shall not be required to have prescriptive authority to provide anesthesia care, including the administration of drugs or medicines necessary for such care.

E. WRITTEN PRESCRIPTION FORMAT

1. All written prescriptions issued by the APN shall contain the name of the client, and the APN's name, telephone number, signature with the initials "APN", prescribing identification number issued by the Board, and should include information contained in Subsection D.5.a-e of this Section.
2. All prescriptions for controlled substances shall be written in accordance with federal regulations. The APN's assigned DEA registration number shall be written on the prescription form when a controlled substance is prescribed.

F. RECEIVING PREPACKAGED DRUG SAMPLES

1. APN's who have fulfilled requirements for prescriptive authority may receive legend drug samples and therapeutic devices appropriate to their area of practice, including controlled substances contained in Schedules III through V of the Controlled Substance Act, which have been prepared, packaged, or fabricated by a pharmaceutical manufacturer in accordance with the Arkansas pharmacy laws and regulations.
2. Records must comply with all applicable federal and state laws and regulations.

G. TERMINATION OF PRESCRIPTIVE AUTHORITY

1. Prescriptive authority may be terminated by the Board when the prescriber:
 - a. Fails to maintain current active licensure as an advanced practice nurse;
 - b. Violates provisions of this Act and/or regulations established by the Arkansas Department of Health, Nursing or Pharmacy Boards;
 - c. Violates any state or federal law or regulations applicable to prescriptions; or
 - d. Fails to follow any conditions imposed.
2. To reinstate prescriptive authority, the APN must meet requirements of the Board at the time of reinstatement.

H. LAPSED CERTIFICATE OF PRESCRIPTIVE AUTHORITY

1. The certificate of prescriptive authority is lapsed if the licensee's advanced practice nurse license is not renewed by the expiration date for the advanced practice license.
2. Failure to receive the renewal notice for the advanced practice license shall not relieve the licensee of the responsibility for renewing the advanced practice license by the expiration date.
3. Any licensee whose certificate of prescriptive authority has lapsed shall submit to the Board:
 - a. A complete Board APN license renewal application;
 - b. Proof of current national certification;
 - c. Proof of current Collaborative Practice Agreement;
 - d. The renewal fee and the reinstatement fee.
4. Fees submitted to the Board are nonrefundable.
5. Any person engaged in practicing within the scope of his or her certificate of prescriptive authority during the time his or her certificate or advanced practice license has lapsed shall be considered an illegal practitioner and shall be subject to the penalties provided for violation of the Nurse Practice Act.

I. INACTIVE STATUS

1. A certificate of prescriptive authority will automatically be considered lapsed and subject to the requirements of these rules when a licensee places his or her advanced practice license in inactive status.
2. While the certificate of prescriptive authority or advanced practice nurse license is inactive the licensee shall not engage in any practice within the scope of the certificate of prescriptive authority.
3. If the nurse desires to resume practice in this state, he or she shall request a renewal application which shall be completed and submitted with a renewal fee and the reinstatement fee. Fees are nonrefundable.

4. All certification requirements for renewal shall apply.
5. If disciplinary proceedings on an inactive licensee have been initiated, the license shall not be reinstated until the proceedings have been completed.

SECTION IX PRESCRIPTIVE AUTHORITY ADVISORY COMMITTEE

A. PURPOSE

The purpose of this committee shall include functioning in an advisory capacity to assist the Board with oversight and implementation of the provisions regarding prescriptive authority.

B. COMPOSITION

The Advisory Committee shall be composed of five (5) members appointed by the Board and approved by the Governor. Three (3) members shall be advanced practice nurses holding certificates of prescriptive authority. One (1) committee member shall be a licensed physician who has been involved in a collaborative practice with a registered nurse practitioner for at least five (5) years. One member shall be a licensed pharmacist who has been in practice for at least five (5) years.

C. TERMS OF OFFICE

Members shall serve three (3) year terms and may be reappointed. No member shall be appointed to more than two (2) consecutive terms without a break in service. The Board may remove any advisory committee member, after notice and hearing, for incapacity, incompetence, neglect of duty or malfeasance in office.

D. COMPENSATION

Advisory committee members shall serve without compensation; but may be reimbursed to the extent special monies are appropriated therefor for actual and necessary expenses incurred in the performance of their official Board duties.

Effective November 30, 2001

CHAPTER SEVEN RULES OF PROCEDURE

SECTION I RULES UNDER THE NURSE PRACTICE ACT AND NOTICE – HEARING

A. RULES UNDER THE NURSE PRACTICE ACT

This exposition of the Rules of Procedure formulated under the Administrative Procedure Act, as amended, ACA §25-15-201 et seq, does not effect a repeal of the provisions of the nurse practice act, its amendments and related laws, except insofar as these Rules of Procedure were formulated under provisions of law which specifically contravenes provisions of the nurse practice act, its amendments and related laws.

B. NOTICE – HEARING

Any such rule shall be made or amended only after a hearing upon notice as set forth in these Rules of Procedure.

SECTION II PRIOR RULES

PRIOR RULES – VALID

Rules of the Board formulated previously are declared to be still in force until amended and certified to the *Arkansas Register*.

SECTION III RULE MAKING

In any case of rule-making, every person has a right to seek to cause the Board to act to make a rule. Every person also has the right to seek to cause an incorrect rule to be corrected.

SECTION IV VIOLATION OF RULES

- A. Willful violation of any rule of the Board, in addition to any other penalty provided by law, shall subject the violator to such denial, suspension or revocation of approval of a nursing program or license to practice nursing as may be applicable.
- B. The ASBN may require state and federal criminal background checks of any licensee for cause.

SECTION V ORDER

A. ORDER – EFFECTIVE ONLY IN WRITING

Orders of the Board shall be effective only when in writing.

B. EFFECTIVE DATE

Each order shall contain its effective date and shall concisely state:

1. Its intent or purpose;
2. The grounds on which it is based;
3. The pertinent provision of law.

C. ORDER MAY BE EFFECTUATED

An order may be given by service upon or delivery to the person ordered by mail, postage prepaid, addressed to the person at his principal place of business or his home as last of record with the Board.

An order may also be served by any officer authorized to serve legal process or by any member of the Board or any employee of the Board.

An attempt to serve notice at the last address of record in the Board office shall constitute official notice.

D. ORDER FORMULATED UPON ADJUDICATION

There shall be an order formulated upon each adjudication made by the Board or its hearing officer.

**SECTION VI
DECLARATORY ORDER – RULES**

A. DECLARATORY ORDER – PETITION FOR

Any person who alleges a rule, or its possible application, may injure or threaten to injure him, his business or property may file a petition for a declaratory order as to the applicability of any rule to be enforced by the Board.

B. PROMPT DISPOSITION

Such petition shall be promptly considered and a prompt disposition shall be made.

C. STATUS

Declaratory orders shall have the same status as agency orders formulated upon adjudication.

**SECTION VII
DECLARATORY ORDER – STATUTES AND ORDERS**

Applicability of statutes or department orders as to any person may be determined in the same manner by declaratory orders.

SECTION VIII ADJUDICATION

A. REASONABLE NOTICE

All parties shall be afforded opportunity for hearing after reasonable notice. (See Section XI, subsection B.3. *infra*.)

B. EVIDENCE MAY BE PRESENTED

Opportunity shall be afforded all people interested in the action to respond and present evidence and argument on all issues involved.

C. STIPULATION/SETTLEMENT/CONSENT OR DEFAULT NOT PROHIBITED

Nothing in these rules shall prohibit informal disposition by stipulation, settlement, consent order or default.

D. RECORD

The record shall include:

1. All pleadings, motions and intermediate rulings;
2. All evidence received or considered, including on request of any party a transcript of all proceedings or any part;
3. A statement of matters officially noticed;
4. Offers of proof, objections and rulings;
5. Proposed findings and exceptions;
6. All staff memoranda or data submitted to the hearing officer in connection with any staff consideration of the matter.

E. FINDINGS OF FACT

Findings of fact shall be based exclusively on the evidence received and on matters officially noticed.

SECTION IX ADJUDICATION – DECISIONS

A. FINAL DECISION

In every case of adjudication there shall be a final decision, or order, which shall be in writing or stated in the record.

1. The final decision shall include findings of fact and conclusions of law each separately stated.
2. The findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying evidence supporting the findings.
3. If any party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding.

B. SERVICE OF COPY – DECISION

Parties shall be served either personally or by mail with a copy of any decision or order.

C. EXEMPTION

Where a formal hearing before a hearing officer has been held at which the parties were given proper notice, and at which opportunity was offered to them to be present in person and by counsel to present testimony, briefs, and argument, a proposal for decision will not be required.

**SECTION X
HEARING OFFICER**

Where convenient and appropriate, a hearing officer may be appointed to take testimony and prepare the record for the consideration of the Board. The hearing officer may conduct hearings at any place within the State of Arkansas. In the conduct of such hearings, the hearing officer shall preside and have the power and duties of a presiding official as set forth in Section X.D. The decision on the record made by the hearing officer shall be made by a majority of the members of the Board.

A. HEARINGS

In every case of adjudication, and in cases of rule making where rules are to be made after hearing, there shall be a hearing.

B. RIGHT OF COUNSEL

Any person compelled to appear before the Board or a hearing officer shall have the right to counsel.

C. IMPARTIALITY

Every member of the Board present shall conduct her/himself in an impartial manner and the presiding official may withdraw if she/he deems her/himself disqualified. Any party may file an affidavit of personal bias or disqualification which shall be ruled upon by the Board and granted if it is timely, sufficient, and filed in good faith.

D. POWER AND DUTIES OF PRESIDING OFFICIAL

The presiding officer of the hearing shall have power to:

1. Administer oaths and affirmations;
2. Maintain order;
3. Rule on all questions arising during the course of the hearing;
4. Hold conferences for the settlement or simplification of the issues;
5. Make or recommend decisions;
6. Generally, to regulate and guide the course of the proceedings.

E. BURDEN OF PROOF

The proponent of a rule or order shall have the burden of proof.

F. EVIDENCE EXCLUDED

Irrelevant, immaterial and unduly repetitious evidence shall be excluded.

G. EVIDENCE ADMITTED

Any other evidence, oral or documentary, not privileged, may be received if it is of a type commonly relied upon by reasonably prudent person in the conduct of their affairs.

H. OBJECTIONS

Objections to evidence may be made and shall be noted of record.

I. EVIDENCE MAY BE WRITTEN – WHEN

When a hearing can be so expedited (and the interests of the parties will not be prejudiced) any part of the evidence may be received in written form.

J. CROSS-EXAMINATION

Parties shall have the right to conduct such cross-examination as may be required for a full, true disclosure of the facts.

K. OFFICIAL NOTICE

Official notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts peculiarly within the Board's specialized knowledge.

1. Parties shall be notified of material so noticed (including any staff memoranda or data).
2. Parties shall be afforded a reasonable opportunity to show the contrary.

**SECTION XI
PROCEDURE ON DENIAL, REPRIMAND, PROBATION,
CIVIL PENALTIES, SUSPENSION, OR REVOCATION**

A. GROUNDS FOR DISCIPLINE

- (a) The Board shall have sole authority to deny, suspend, revoke or limit any license to practice nursing or certificate of prescriptive authority issued by the Board or applied for in accordance with the provisions of this chapter, or to otherwise discipline a licensee upon proof that the person:
1. Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing or engaged in the practice of nursing without a valid license;
 2. Is guilty of crime or gross immorality;
 3. Is unfit or incompetent by reason of negligence, habits or other causes;
 4. Is habitually intemperate or is addicted to the use of habit-forming drugs;
 5. Is mentally incompetent;

6. Is guilty of unprofessional conduct;
 7. Has had a license, certificate or registration revoked, suspended or placed on probation or under disciplinary order in any jurisdiction;
 8. Has voluntarily surrendered a license, certification or registration and has not been reinstated in any jurisdiction; or
 9. Has willfully or repeatedly violated any of the provisions of this chapter.
- (b) The board shall refuse to issue or shall revoke the license of any person who is found guilty of or pleads guilty or nolo contendere to any offense listed in §17-87-312(f) unless the person requests and the board grants a waiver pursuant to §17-87-312(h).
 - (c) Proceedings under this section shall be as provided in the Arkansas Administrative Procedure Act, as amended, § 25-15-201 et seq.

B. PROCEEDINGS

Proceedings shall be as follows.

1. Opportunity for licensee or applicant to have hearing.
 Except as provided in subsection 2 below, every licensee or applicant for a license shall be afforded notice and an opportunity to be heard before the Board. The Board shall have authority to take any action the effect of which would be to:
 - a. Deny permission to take an examination for licensing for which application has been duly made;
 - b. Deny a license after examination for any cause other than failure to pass an examination;
 - c. Withhold the renewal or reinstatement of a license for any cause;
 - d. Revoke a license;
 - e. Suspend a license;
 - f. Probate a license;
 - g. Reprimand a licensee;
 - h. Levy civil penalties.
2. Suspension of license without prior notice or hearing. If the Board finds that the continued practice by a licensee of the occupation or profession for which he/she is licensed will create an immediate hazard to the public, the Board may suspend the license pending a hearing without prior notice of hearing.
3. Notice of action or contemplated action by the Board—Request for Hearing—Notice of Hearing.
 - a. When the Board contemplates taking any action of a type specified in paragraphs a. and b. of subsection B.1. supra, it shall give written notice to the applicant at the last address of record in the Board office, including a statement:
 - (1) That the applicant has failed to satisfy the Board of his or her qualifications to be examined or to be licensed, as the case may be;

- (2) Indicating in what respects the applicant has failed to satisfy the Board; and
- (3) That the applicant may secure a hearing before the Board by depositing in the mail, within 20 days after service of said notice, a registered letter addressed to the Board containing a request for a hearing.
 1. In any proceeding of the Board involving the denial of a duly made application to take an examination, or refusal to issue a license after an applicant has taken and passed an examination, the burden of satisfying the Board of the applicant's qualifications shall be upon the applicant.
 2. When the Board contemplates taking any action of a type specified in subsections c, d, and e of subsection B.1. supra, it shall give a written notice to the licensee at the last address of record in the Board office, through the Board's attorney, which contains a statement:
 - (1) That the Board has sufficient evidence which, if not rebutted or explained, will justify the Board in taking the contemplated action;
 - (2) Indicating the general nature of the evidence, and detailed allegations of violation of ACA §17-87-309(a)(1-9) the licensee is charged with;
 - (3) That a hearing will be held on a date certain, no sooner than 20 days after the mailing of the notice to the last address of record in the Board office; and at that hearing the Board will receive evidence.
 3. When the Board shall summarily suspend a license pending a hearing, as authorized in subsection B.2 supra, it shall give written notice of the general nature of the evidence and detailed allegations of violation of ACA §17-87-309(a)(1-9) the licensee is charged with:
 - (1) That the Board has sufficient evidence which, if not rebutted or explained, will justify revocation of the license by the Board;
 - (2) Indicating the general nature of the evidence against the licensee;
 - (3) That, based on the evidence indicated, the Board has determined that the continuation of practice of the occupation or profession of the licensee will create an immediate hazard to the public and has therefore suspended the license of the licensee effective as of the date such notice is served;
 - (4) The Board will then set an immediate hearing for a full evidentiary presentation by the licensee and the Board.
 4. In any hearing before the Board involving the suspension or revocation of a license, the burden shall be on the Board to present competent evidence to justify the action taken or proposed by the Board.

C. CIVIL PENALTIES

The Board may, after providing notice and a hearing, levy civil penalties in an amount not to exceed one thousand dollars (\$1,000.00) for each violation against those individuals or entities found to be in violation of this Chapter or regulations promulgated thereunder.

1. Each day of violation shall be a separate offense.
2. These penalties shall be in addition to other penalties which may be imposed by the Board pursuant to this Chapter.
3. Unless the penalty assessed under this subsection is paid within fifteen (15) calendar days following the date for an appeal from the order, the Board shall have the power to file suit in the Circuit Court of Pulaski County to obtain a judgment for the amount of penalty not paid.

D. ENCUMBRANCE OR SUSPENSION OF DEA REGISTRATION

The APN shall submit his/her DEA Registration to the Board upon request following disciplinary hearing in which the registration is encumbered or suspended.

E. METHOD OF SERVING NOTICE OF HEARING

Any notice required by subsection B.3, above, may be served either personally or by an officer authorized by law to serve process, or by registered mail or certified mail with return receipt requested, directed to the licensee or applicant at his or her last known address as shown by the records of the Board. If notice is served personally, it shall be deemed to have been served at the time when the officer delivers the notice to the person addressed. Where notice is served by registered mail, it shall be deemed to have been served on the date borne by the return receipt showing delivery of the notice to the addressee or refusal of the addressee to accept the notice. An attempt to serve notice at the last address of record shall constitute official notice.

F. VENUE OF HEARING

Board hearings held under the provisions of this rule shall be conducted at the Board office or elsewhere in Pulaski County.

G. HEARINGS PUBLIC

Use of Hearing Office – All hearings under this section shall be open to the public.

At all such hearings at least a quorum of the Board shall be present to hear and determine the matter.

H. RIGHTS OF PERSONS ENTITLED TO HEARING

A person entitled to be heard pursuant to this section shall have the right to:

1. Be represented by counsel;
2. Present all relevant evidence by means of witnesses and books, papers and documents;

3. Examine all opposing witnesses on any matter relevant to the issues;
4. Have subpoenas and subpoenas duces tecum issued to compel the attendance of witnesses and the production of relevant books, papers and documents upon making written request therefor to the Board; and
5. Have a transcript of the hearing made at his or her own expense as provided in Section VIII.D. hereof.

I. POWERS OF THE BOARD IN CONNECTION WITH HEARING

In connection with any hearing held pursuant to the provisions of this section, the Board or its hearing officer shall have power to:

1. Have counsel to develop the case;
2. Administer oaths or affirmations to witnesses called to testify;
3. Take testimony;
4. Examine witnesses;
5. Have a transcript of the hearing made at the expense of the Board; and
6. Direct a continuance of any case.

J. RULES OF EVIDENCE

In proceedings held pursuant to this rule, the Board may admit any evidence and may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent men in the conduct

of serious affairs. The Board may in their discretion exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

K. FEES – WITNESSES

Witness fees and mileage, if claimed, shall be allowed the same as for testimony in a Circuit Court.

L. MANNER AND TIME OF RENDERING DECISION

After a hearing has been completed, the members of the Board shall proceed to consider the case and as soon as practicable shall render their decision. If the hearing was conducted by a hearing officer, the decision shall be rendered by the Board at a meeting where a quorum of the members of the Board are present and participating in the decision. In any case the decision must be rendered within ninety (90) days after the hearing.

M. SERVICE OF WRITTEN DECISION

Within a reasonable time after the decision is rendered, the Board shall serve upon the person whose license is involved a written copy of the decision, either personally or by registered mail to the last address of record in the Board office. If the decision is sent by registered mail, it shall be deemed to have been served on the date borne on the return receipt.

N. PROCEDURE WHERE PERSON FAILS TO REQUEST OR APPEAR FOR HEARING—REOPENING HEARING

If a person duly notified fails to appear for a disciplinary hearing and no continuance has been granted, the Board, or its hearing officer, shall hear the evidence of such witnesses as may have appeared, and the Board shall proceed to consider the matter and dispose of it on the basis of the evidence before it in the manner required by subsection L. of Section XI. Failure of the licensee to keep the Board informed of a change of address shall not be grounds to have the hearing reopened.

Where because of accident, sickness, or other cause a person fails to appear for a hearing which has been scheduled by the Board, the person may, within a reasonable time, apply to the Board to reopen the proceeding; and the Board, upon finding such cause sufficient, shall immediately fix a time and place for hearing, and give such person notice thereof as required by Sections XI.B.3. and XI.E. At the time and place fixed, a hearing shall be held in the same manner as would have been employed if the person had appeared in response to the original notice of hearing.

O. CONTENTS OF DECISION

The decision of the Board shall contain:

1. Findings of fact made by the Board;
2. Conclusions of law reached by the Board;
3. The order of the Board based upon these findings of fact and conclusions of law; and
4. A statement informing the person whose license is involved of his right to request a judicial review and the time within which such request must be made.

P. JUDICIAL REVIEW

Judicial review of proceedings under this rule shall be set out in Section XII.

**SECTION XII
JUDICIAL REVIEW**

A. JUDICIAL REVIEW – RULE MAKING

1. DECLARATORY JUDGMENT
The validity or applicability of a rule may be determined in an action of declaratory judgment if it is alleged that the rule (or its threatened application) injures or threatens to injure the plaintiff.
2. VENUE – CIRCUIT COURTS
An application for declaratory judgment may be brought in the circuit court of Pulaski County.
3. BOARD NAMED DEFENDANT
The Board shall be named defendant.

4. **DECLARATORY JUDGMENT AVAILABLE**

A declaratory judgment may be sought and rendered whether or not the plaintiff requested the Board to act upon the validity or applicability of the questioned rule.

B. JUDICIAL REVIEW - FAILURE TO ACT

RULE MAKING

If the Board shall unlawfully, unreasonably, or capriciously fail, refuse, or delay to act in respect to rule-making, any person may sue for an order commanding the Board to act.

VENUE – CHANCERY COURTS

The suit may be brought in the chancery court of Pulaski County.

C. JUDICIAL REVIEW – FAILURE TO ACT IN ADJUDICATION

Any person who considers himself injured by a failure to act in a case of adjudication has the same judicial review as in a matter of failure to act pertaining to rule-making.

VENUE – CHANCERY COURTS

The plaintiff may bring suit for an order commanding the Board to act. The suit shall be in the Pulaski Chancery Court.

D. JUDICIAL REVIEW – ADJUDICATION

In cases of adjudication, any person who considers himself injured in his person, business or property by final Board action shall be entitled to judicial review.

1. **OTHER REVIEW – NOT EXTINGUISHED**

Nothing in this section shall be construed to limit other means of review provided by law.

2. **VENUE – CIRCUIT COURTS**

Proceedings for review may be instituted by filing a petition in the circuit court of Pulaski County or the county in which the person resides.

3. **TIME**

The petition shall be filed within thirty days after service of the Board's final decision of the adjudication upon petitioner.

4. **SERVICE**

Service shall be had by serving a copy of the petition upon the Board and all other parties of record either by personal service or by mail.

5. **INTERVENORS**

The court may permit other interested parties to intervene.

6. **STAY OF ORDER**

Filing of the petition shall not automatically stay enforcement of the Board decision. The Board, upon its own action, or the reviewing court may stay the order upon such terms as may be just.

7. **RESPONSE**

Response shall be made within thirty (30) days after service of the petition, or within such time as the court may allow, but not exceeding a total of ninety (90) days.

8. **BOARD SHALL TRANSMIT RECORD TO COURT**

The Board shall transmit the record to the reviewing Court.

- a. The record shall be either the original or a certified copy of the entire record.
- b. By stipulation of all parties to the review, the record may be shortened.
- c. The court may require or permit subsequent corrections or additions to the record.

9. **ADDITIONAL EVIDENCE**

Additional evidence may be had if, before the date for hearing, application is made to the Court for leave to present additional evidence.

- a. Must obtain leave of court.
- b. Evidence must be material.
- c. Must show a good reason for failure to present the evidence.
- d. The court may set such conditions as may be just.
- e. The Board may modify its findings and decisions by reason of the additional evidence. If so, that evidence and any modifications, new findings, or decisions shall be filed with the reviewing court.

10. **REVIEW BY COURT WITHOUT JURY**

The review shall be conducted by the court without jury and shall be confined to the record.

EXCEPTION:

- a. In cases of alleged irregularities in procedure before the Board (not shown in the record) testimony may be taken before the Court.
- b. Upon request, the court shall hear oral arguments and receive written briefs.

11. **RULING OF REVIEWING COURT**

The reviewing court may affirm the decision of the Board, or it may remand the case for further proceedings. It also may reverse or modify the decision if substantive rights of the petitioner have been prejudiced because the administrative findings, inferences, conclusions or decisions are:

- a. In violation of constitutional or statutory provisions;
- b. In excess of the Board's statutory authority;
- c. Made upon unlawful procedure;
- d. Affected by other error of law;
- e. Not supported by substantial evidence of record, or, if it is arbitrary, capricious, or characterized by abuse of discretion.

E. JUDICIAL REVIEW – DISCIPLINARY PROCEEDINGS

In cases of disciplinary proceedings any respondent shall be entitled to judicial review of the final Board action.

1. **VENUE – CIRCUIT COURT**

Proceedings for review may be instituted by filing a petition in the Circuit Court of Pulaski County or the county in which the person resides.

2. TIME
The petition shall be filed within thirty (30) days after service of the Board's final decision of the adjudication upon petitioner.
3. SERVICE
Service shall be had by serving a copy of the petition upon the president or the secretary of the Board.

4. STAY OF ORDER
Filing of the petition shall not automatically stay enforcement of the Board decision. The Board, upon its own action, or the reviewing court may stay the decision or order upon such terms as may be just.
5. RESPONSE
Response shall be made within thirty (30) days after service of petition, or within such time as the court may allow, but not exceeding a total of ninety (90) days.
6. THE BOARD SHALL TRANSMIT RECORD TO COURT
The Board shall transmit the record to the reviewing court.
 - a. The record shall be either the original or a certified copy of the entire record.
 - b. By stipulation of all parties to the review, the record may be shortened.
 - c. The court may require or permit subsequent corrections or additions to the record.
7. ADDITIONAL EVIDENCE
Additional evidence may be had if, before the date for hearing, application is made to the court for leave to present additional evidence.
 - a. Must obtain leave of court.
 - b. Evidence must be material.
 - c. Must show a good reason for failure to present the evidence.
 - d. The court may set such conditions as may be just.
 - e. The Board may modify its findings and decisions by reason of the additional evidence. If so, that evidence and any modifications, new findings, or decisions shall be filed with the reviewing court.
8. REVIEW BY COURT WITHOUT JURY
The review shall be conducted by the court without a jury and shall be confined to the record.
 - a. EXCEPTION
In cases of alleged irregularities in procedure before the Board (not shown in the record) testimony may be taken before the court.

- b. Upon request, the court shall hear oral argument and receive written briefs.
9. **RULING OF REVIEWING COURT**
The reviewing court may affirm the decision of the Board, or it may remand the case for further proceedings. It also may reverse or modify the decision if substantive rights of the petitioner have been prejudiced because the administrative findings, inferences, conclusions or decisions are:
- a. In violation of constitutional or statutory provisions;
 - b. In excess of the Board's statutory authority;
 - c. Made upon unlawful procedure;
 - d. Affected by other error of law;
 - e. Not supported by substantial evidence of record, or if it is arbitrary, capricious, or characterized by abuse of discretion.

**SECTION XIII
APPEALS TO THE SUPREME COURT OF ARKANSAS**

Appeals to the Arkansas Supreme Court from any final action of a chancery or circuit court shall follow the procedure prescribed by law.

**SECTION XIV
ENFORCEMENT**

A. CIVIL ACTION

The Board may institute such civil suits or other legal proceedings as may be required for enforcement of any provisions of ACA §17-87-101 through 17-87-401 (Nurse Practice Act), as amended, and related acts.

B. CRIMINAL ACTION

If the Board has reason to believe that any person has violated any provisions of the Nurse Practice Act, as amended, or related acts for which criminal prosecution would be in order, it shall so inform the prosecuting attorney in whose district any such purported violation may have occurred.

**SECTION XV
DISCIPLINARY PROCEEDINGS**

A. DEFINITIONS

1. The term "fraud and deceit" shall include but not be limited to:
 - a. False representation of facts on an application for licensure by examination or licensure by endorsement without examination or on application for renewal of license;
 - b. False representation by having another person in his/her place for the licensing examination or any part thereof;
 - c. Forged or altered documents or credentials as required for the application for original license, application for renewal of

- license, or application for certificate of prescriptive authority;
 - d. Disclosing the contents of the licensing examination or soliciting, accepting or compiling information regarding the examination before, during or after its administration;
 - e. Aiding, abetting, assisting or hiring an individual to violate or circumvent any law or duly promulgated rules and regulations intended to guide the conduct of a nurse or other health care provider;
 - f. Prescribing any drug, medicine, or therapeutic device unless certified by the Board as having prescriptive authority.
 - g. Engaging in the practice of nursing without a valid license.
2. The term "gross immorality" shall include but not be limited to acts and conduct inconsistent with the rules and principles of morality which relate to the practice of nursing and the responsibilities of the licensee.
 3. The term "negligence" means the failure to do some act of nursing which a licensee should do, guided by those ordinary considerations which regulate the practice of nursing; or the doing of something which a reasonable and prudent licensee would not do under the same or similar facts and circumstances in the practice of nursing.
The term "gross negligence" is an exercise of such minimal care as to justify the belief that there was a conscious disregard or indifference for the health, safety, or welfare of the patient or the public and shall be considered a substantial departure from the accepted standard of care.
The term "other causes" shall include but not be limited to the inability to practice nursing because of physical and/or psychological impairment.
 4. The term "habitually intemperate or addicted" shall include but not be limited to the use of hallucinogenics, stimulants, depressants or intoxicants which could result in behavior that interferes with the practice of nursing.
 5. The term "mental incompetence" shall include those situations where a court has adjudged a licensee as incompetent.
 6. The term "unprofessional conduct" which, in the opinion of the Board, is likely to deceive, defraud, or injure patients or the public, means any act, practice, or omission that fails to conform to the accepted standards of the nursing profession and which results from conscious disregard for the health and welfare of the public and of the patient under the nurse's care; and includes, but is not limited to, the conduct listed below:
 - a. Failing to assess and evaluate a patient's status or failing to institute nursing intervention which might be required to stabilize a patient's condition or prevent complications.
 - b. Knowingly or consistently failing to accurately or intelligibly

- report or document a patient's symptoms, responses, progress, medications, and/or treatments.
- c. Knowingly or consistently failing to make entries, destroying entries, and/or making false entries in records pertaining to the giving of narcotics, drugs, or nursing care.
 - d. Unlawfully appropriating medications, supplies, equipment, or personal items of the patient or employer.
 - e. Failing to administer medications and/or treatments in a responsible manner.
 - f. Performing or attempting to perform nursing techniques and/or procedures in which the nurse is untrained by experience or education, and practicing without the required professional supervision.
 - g. Violating the confidentiality of information or knowledge concerning the patient except where required by law.
 - h. Causing suffering, permitting or allowing physical or emotional injury to the patient or failing to report the same in accordance with the incident reporting procedure in effect at the employing institution or agency.
 - i. Leaving a nursing assignment without notifying appropriate personnel.
 - j. Failing to report to the Board within a reasonable time of the occurrence, any violation or attempted violation of the Arkansas Nurse Practice Act or duly promulgated rules, regulations, or orders.
 - k. Delegating nursing care functions and/or responsibilities in violation of the Arkansas Nurse Practice Act and the Arkansas State Board of Nursing Rules and Regulations, Chapter 5.
 - l. Failing to supervise persons to whom nursing functions are delegated or assigned.
 - m. Practicing nursing when unfit to perform procedures and make decisions in accordance with the license held because of physical, psychological or mental impairment.
 - n. Failing to conform to the Universal Precautions for preventing the transmission of Human Immunodeficiency Virus and Hepatitis B Virus to patients during exposure prone invasive procedures.
 - o. Providing inaccurate or misleading information regarding employment history to an employer or the Arkansas State Board of Nursing.
 - p. Failing a drug screen as requested by employer or Board.
 - q. Engaging in acts of dishonesty which relate to the practice of nursing.
 - r. Failure to display appropriate insignia to identify the nurse during times when the nurse is providing health care to the public.
7. The term "has had a license, certificate or registration revoked, suspended or placed on probation or under disciplinary order" refers to actions in any jurisdiction;

8. The term “has voluntarily surrendered a license, certification or registration and has not been reinstated” refers to actions in any jurisdiction.
9. The term "willfully" shall include but not be limited to:
 - a. Continuing action after notice by the Arkansas State Board of Nursing;
 - b. Disregarding the expiration date of the license;
 - c. Providing false, incorrect, or incomplete information to the employer regarding the status of the license;
 - d. Performing acts beyond the authorized scope of the level of nursing for which the individual is licensed, and practicing without required professional supervision;
 - e. Failing to follow the Nurse Practice Act of the State of Arkansas and its rules and regulations.

Effective November 30, 2001